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Order 2001-2-3



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 2nd day of February, 2001

Served: February 2, 2001

In the matter of the cancellation of the interstate
and foreign charter certificates issued to

SKY KING, INC.

in accordance with section 204.7 of the
Department's Regulations

Dockets OST-97-3017-16
OST-97-3113-18

ORDER RESCINDING CERTIFICATE CANCELLATION

Summary

By this order, we rescind Order 2000-12-7, served December 12, 2000, which canceled the interstate charter certificate issued to Sky King, Inc., for reason of dormancy. In addition, we grant Sky King an additional six-months (until August 1, 2001) in which to fulfill the conditions contained within its interstate and foreign charter certificates for receipt of effective authority and commence actual flight operations thereunder.¹

Background

Sky King was awarded interstate and foreign charter authority in early 1998.² The effectiveness of these certificates was conditioned upon Sky King's fulfilling a number of conditions, including providing us with a copy of its Part 121 Air Carrier Certificate and Operations Specifications from the Federal Aviation Administration (FAA) authorizing such operations and updated fitness information, including evidence that Sky King continued to have available funds sufficient to meet the Department's financial fitness criteria.

Section 204.7 of the Department's Aviation Economic Regulations (14 CFR 204.7) provides that, if a company does not institute air transportation operations within one year of being

¹ Sky King currently conducts operations under Part 125 of the Federal Aviation Regulations. This Operating Certificate does not authorize the company to engage in common carriage and, hence, these operations are not conducted pursuant to the interstate and foreign charter certificates at issue here.

² See Order 98-3-26, served April 1, 1998, and Order 98-4-14, served April 17, 1998, which issued, respectively, an interstate charter and foreign charter certificate to Sky King.

found fit by the Department to do so, its economic authority will be terminated for reason of dormancy. Under this rule, Sky King's one-year period would have expired on April 1, 1999. However, prior to that date, the company requested and was granted a six-month extension of time (until October 1, 1999) from the one-year "use or lose" requirement of section 204.7. That extension was further extended based on various requests from the carrier until November 19, 2000. However, no request to extend the revocation-for-dormancy date past November 19, 2000, was received and, as a result, by Order 2000-12-7, the Department cancelled the interstate charter certificate of Sky King for reason of dormancy.³

Sky King has requested that the Department rescind this action.⁴ In making this request, Sky King notes that, during its last six-month extension, it continued to work with the FAA toward completing the steps required to receive a Part 121 Air Carrier Certificate and commence flight operations under the certificate authority at issue. It states that its failure to request another extension of time from the revocation-for-dormancy provisions of section 204.7 was an oversight on its part. While this oversight led to the Department's action canceling Sky King's certificate, it has also had the effect of causing a suspension of the FAA's Part 121 process at a time when Sky King believes it had reached the final stages of this process.

The FAA has confirmed that Sky King was making significant progress towards completing its Part 121 certification at the time of our action canceling Sky King's interstate charter authority. Moreover, the FAA has indicated that it supports Sky King's request for an extension of time in which to become operational. Therefore, we have decided to rescind our action canceling Sky King's interstate charter authority.⁵ In so doing, we will grant the company an additional six months in which to complete the FAA Part 121 process and commence actual flight operations under its certificate authority.

In taking this action, however, we remind the company of the need to provide up-to-date information in support of its continued fitness. Information on the carrier's current management and key technical personnel, as well as its current financial condition was requested at the time of our last extension. None of the information requested has been supplied and we are therefore unable to state whether the company continues to be fit to hold its certificate authority. In its January 22, 2001, request for rescission of our cancellation action, Sky King has indicated that it intends to file a comprehensive update of information supporting its continuing fitness by February 22, 2001. Should it fail to do so, we will not consider any further extension requests.

³ In addition, that order noted the Department's intent to cancel Sky King's companion foreign charter certificate, subject to Presidential review under 49 U.S.C. 41307, for the same reason.

⁴ Sky King filed this request on January 22, 2001, accompanied by a motion for leave to file an otherwise unauthorized document. We will accept this document.

⁵ No order canceling Sky King's foreign charter certificate has been issued. Thus, no additional action with respect to that certificate is required.

ACCORDINGLY, Acting under authority assigned by the Department in its regulations, 14 CFR 385.12:

1. We rescind Order 2000-12-7, served December 12, 2000, which canceled the interstate charter certificate issued by Order 98-3-26 to Sky King, Inc.
2. We grant Sky King, Inc., an extension of time until August 1, 2001, in which to fulfill all requirements for receipt of effective certificate authority and commence actual flight operations under its certificates of public convenience and necessity.
3. We direct Sky King, Inc., to file up-to-date information in support of its fitness in Docket OST-97-3017 by February 22, 2001.⁶
4. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

The action taken in this order shall be effective immediately and the filing of a petition for review shall not alter its effectiveness.

By:

RANDALL D. BENNETT
Director
Office of Aviation Analysis

(SEAL)

*An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov>*

⁶ Sky King should provide current information addressing each portion of section 204.3 of our rules.

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